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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,500	12/30/1999	Daniel C. Notarnicola	4585-001	6392

4678 7590 04/15/2005

MACCORD MASON PLLC
300 N. GREENE STREET, SUITE 1600
P. O. BOX 2974
GREENSBORO, NC 27402

EXAMINER

NGUYEN, JOHN QUOC

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/475,500

Applicant(s)

NOTARNICOLA, DANIEL C.

Examiner

John Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 40 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 40 and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

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Applicant's election without traverse of Group IV in Paper No. 7 has been acknowledged.

It appears that "of" (claim 40, line 10, last occurrence) should be deleted.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 40 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Decker et al (US 5211308) in view of Beane et al (US 4905686) or, vice versa, Beane et al in view of Decker et al.

Decker et al discloses a dispenser having substantially all the claimed features including a nozzle 30, base 31/33, and tapered exit funnel 40 having a ball 54 in the outlet. Beane et al discloses another similar apparatus in which the nozzle 8 has a conventional single unobstructed outlet. It would have been obvious to a person having ordinary skill in the art to alternatively provide the outlet of Decker et al as a conventional single unobstructed outlet as taught by Beane et al to dispense the paper to reduce the number of parts and costs. Alternatively, it would have been obvious to a person having ordinary skill in the art to alternatively provide the nozzle of Beane et al at an angle as taught by Decker et al to direct the paper to the user. Decker et al discloses the angle to be 25 degrees. To make the angle "about 30 degrees" would have been an obvious matter of design choice to a person having ordinary skill in the art based on factors such as ornamental preference, design criteria (such as to direct the

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outlet more towards the user), and space optimization (such as to clear other objects mounted directly below the dispenser).

Applicant's arguments filed 2/25/05 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation for the unobstructed passageway is found in the reference themselves, i.e. Beane et al. The slight increase in the angle on inclination, from 25 to 30 degrees, as noted above, would have been an obvious matter of design choice to a person having ordinary skill in the art based on factors such as ornamental preference, design criteria (such as to direct the outlet more towards the user), and space optimization (such as to clear other objects mounted directly below the dispenser).

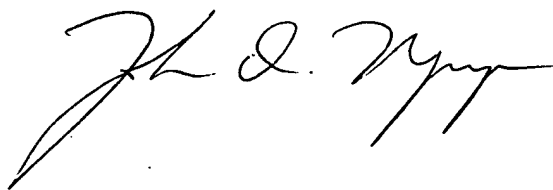
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Q. Nguyen whose telephone number is (571) 272-6952. The examiner can normally be reached on Monday-Friday from 7:00 AM to 4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki, can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'John Q. Nguyen', with a stylized, flowing script.

John Q. Nguyen
Primary Examiner
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